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16 Center for Biological Diversity

17 UNITED STATES DISTRICT COURT
18
19 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

20 CENTER FOR BIOLOGICAL
21 DIVERSITY,

22 Plaintiff,

23 v.

24 UNITED STATES FISH AND WILDLIFE
25 SERVICE and DIRK KEMPTHORNE,
26 Secretary of the Interior,

27 Defendants.

) Case No. 3:07-cv-02380-JM-AJB

) **PLAINTIFF'S RESPONSE TO THE**
) **NEWHALL LAND AND FARMING**
) **COMPANY'S MOTION TO INTERVENE**

) Assigned to: Hon. Jeffrey T. Miller

) Date: April 25, 2008

) Time: 1:30

) Courtroom: 16

Applicant-in-Intervention Newhall Land and Farming Company (“Newhall”) has moved to intervene in this action as of right under Federal Rule of Civil Procedure 24(a) and permissively under Federal Rule of Civil Procedure 24(b). Newhall states that the existing parties have no opposition to its intervention. Memo. Sup. Motion to Intervene at 4:9-12. However, Plaintiff Center for Biological Diversity (the “Center”) has made clear to Newhall that its non-opposition is conditional. The Center therefore submits this response to Newhall’s Motion to Intervene to clarify the Center’s position regarding Newhall’s intervention and to state the condition the Center has attached to its non-opposition.

Prior to filing the Motion to Intervene, counsel for Newhall contacted counsel for the Center and submitted a written proposal, dated February 21, 2008, outlining Newhall’s interest in this case. Declaration of Lisa T. Belenky at ¶¶ 3-4; Declaration of David P. Hubbard, Exh. A. The Center responded with a letter dated February 29, 2008, in which it stated that it “would not object to limited intervention by Newhall solely on issues regarding the scope of interim relief in this action.” Decl. of Lisa T. Belenky, Exh. 1. This was and is the Center’s condition for non-opposition to Newhall’s Motion to Intervene. Decl. of Lisa T. Belenky at ¶ 6. If Newhall’s intervention is limited solely to addressing issues regarding the scope of interim relief, then the Center does not oppose the motion. To the extent that Newhall seeks leave to intervene for any other purpose, however, the Center would oppose the motion and would request further briefing on the issue.

Dated: March 24, 2008

s/ John Buse

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of March, 2008, I filed the foregoing document electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Meredith Flax
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Attorney for Defendants United States Fish
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David Hubbard
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Attorney for Defendant-Intervenor
Applicant Newhall Land and Farming
Company

Dated: March 24, 2008

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